

VZCZCXYZ0011  
PP RUEHWEB

DE RUEHUL #0548/01 0480504  
ZNR UUUUU ZZH  
P 170504Z FEB 06  
FM AMEMBASSY SEOUL  
TO RUEHC/SECSTATE WASHDC PRIORITY 6052  
INFO RUEHBJ/AMEMBASSY BEIJING 0094  
RUEHKO/AMEMBASSY TOKYO 0174  
RHMFISS/COMUSKOREA J2 SEOUL KOR  
RHMFIUU/COMUSKOREA SCJS SEOUL KOR  
RUEHC/DEPT OF LABOR WASHINGTON DC  
RHMFISS/COMUSKOREA J5 SEOUL KOR  
RUCPDO/DEPT OF COMMERCE WASHDC 1343

UNCLAS SEOUL 000548

SIPDIS

SENSITIVE  
SIPDIS

STATE FOR EAP/K AND EB/TPP/BTA  
PASS USTR FOR CUTLER AND KI

E.O. 12958: N/A  
TAGS: [ECON](#) [ELAB](#) [ETRD](#) [KS](#) [PGOV](#)  
SUBJECT: LABOR SNAPSHOT: THE ISSUES

REF: A. SEOUL 507

[1](#)B. 05 SEOUL 637  
[1](#)C. 05 SEOUL 1669  
[1](#)D. 05 SEOUL 2042

SENSITIVE BUT UNCLASSIFIED -- PLEASE HANDLE ACCORDINGLY

#### SUMMARY AND INTRODUCTION

-----

[1](#)1. (SBU) This is the second of three cables (Ref A is the first) that describe ROK labor-management relations in anticipation of upcoming U.S.-ROK Free Trade Agreement negotiations. This report focuses on the two main issues that have dominated industrial relations debate over the past year: "irregular" workers and labor reform. Korea's biggest challenge has been how to address ROK's sizable population of contract, temporary and part-time employees. It is a matter of concern not just for the workers themselves, who may make up over half of the workforce and generally earn far less than regular workers, but also for unions, who depend on regular workers for their membership rolls, and for employers, who depend on temporary workers to cope with the ROK's comparatively expensive and inflexible labor market. The government's legislative solution has stalled in the National Assembly and managed to alienate both labor and management. A labor reform "roadmap" has been the other main topic of discussion. In circulation since 2003, the roadmap contains provisions that would further align Korean law with international standards and ameliorate the impact of major labor law changes that will come into effect in January 2007. Organized labor, however, opposes the roadmap as a blueprint for "arbitrary corporatism." END SUMMARY.

#### IRREGULAR WORKERS

-----

[1](#)2. (SBU) A significant portion of the ROK labor force is comprised of contract workers, temporary employees, part-time employees, temp agency personnel, and other "irregular" workers. Employers have increasingly turned to this workforce to avoid the high costs associated with regular personnel. Employers point out that laying off workers in the ROK, relative to other countries, is extremely expensive. As a result, employers hire temporary workers to maintain a labor force they can adjust according to ever-changing product and business trends. According to Ministry of Labor



statistics released in October 2005, Korea had 5.48 million nonregular workers, who made up 36.6 percent of the workforce. Labor and other groups claimed that the number could even be as high as 60 percent. Irregular workers generally enjoyed fewer benefits, had lower job security, and received lower wages than regular workers performing comparable work. According to an August 2005 Korea Labor Institute study, irregular workers earned 70 percent of the salaries earned by regular workers.

¶3. (SBU) In 2004, the Ministry of Labor introduced legislation to increase labor market flexibility and address irregular worker discrimination and related problems (Ref B).

This government plan would prohibit discrimination and grant regular worker benefits, including termination protections, to irregular workers who have been employed for at least three years. The proposal would also change the law regulating temporary workers that work for employment agencies ("dispatch workers"). Such employees currently represent less than 1 percent of the labor force, are able to work in only 26 industries, and are primarily clerical. Under the new law, all industries except for the construction, hospital, marine, "dangerous industries," and any other sectors designated by presidential decree would be allowed to use dispatch workers.

¶4. (SBU) Strongly objecting to the proposal, organized labor argues that the law would allow firms to increase the employment of irregular workers and further institutionalize their presence in the workforce. Labor unions have already organized numerous demonstrations and strikes over this issue (Ref C) and have promised many more if the bill is passed into law. Employers have also been critical. The American Chamber of Commerce, for instance, faulted the proposal for insufficiently addressing the workplace flexibility issue, which pushed employers to hire temporary workers in the first place. In a February 13 press conference, Lee Soo-young, Chairman of the Korea Employers' Federation, warned that if the government went too far toward protecting irregular workers without increasing workplace flexibility, there could be "strikes by management." He explained that more and more South Korean companies would quietly move their plants to China, India, Bangladesh and other countries with lower labor costs.

¶5. (SBU) Thus, lacking any real base of public support, the bill has had a tortured history. The ruling Uri Party tried to pass it in February 2005, but Democratic Labor Party (DLP) representatives physically blockaded the National Assembly committee chamber until they secured an agreement to postpone its consideration until April 2005. In April, the Labor and Environment Committee initiated a three-way dialogue to review the legislation. Later that month, the National Human Rights Commission (NHRC), which has the authority to issue non-binding opinions on matters relating to human rights, declared that the bill did not provide sufficient protection for irregular workers and proposed that the bill include provisions that required equal pay for equal work and a limitation on the types of work for which contract laborers could be hired (Ref D). The nation's two umbrella trade federations -- the Korean Confederation of Trade Unions (KCTU) and the Federation of Korean Trade Unions (FKTU) -- quickly endorsed the NHRC position, which the MOL and business groups found unacceptable, and negotiations in the National Assembly broke down. Nevertheless, the government has said it was committed to passing the legislation by February 2006.

#### ROADMAP FOR INDUSTRIAL RELATIONS REFORM: BACKGROUND

-----

¶6. (SBU) The passionate debate over irregular workers may be just a prelude to a larger battle over a long-pending labor reform plan. In 2003, MOL charged a committee of experts with the daunting tasks of resolving outstanding labor relations issues and helping the ROK meet international labor standards. That committee produced the "Initiative on the Advancement of the Labor Relations Law and Systems," or the



"roadmap," which MOL passed to the Korean Tripartite Commission (KTC) for review. Without significant alteration, the KTC handed the roadmap back to MOL in September 2005.

¶17. (SBU) At the time, MOL said it would submit the roadmap to the National Assembly for passage in February 2006. While the government's timeline now appears somewhat unrealistic, the ROKG has an interest in expeditiously passing the roadmap into law because it would resolve several areas about which the OECD has expressed concern (septel). (NOTE: The OECD now expects a report on the results of the roadmap legislation in the spring of 2007. END NOTE.). Further, imminent labor law changes in the ROK are likely to force the roadmap to the center of public attention. In particular, according to the Trade Union and Labor Relations Adjustment Act (TULRAA), the current practice of employers paying the wages of full-time union workers will be prohibited beginning in January 2007. Also in January 2007, the current prohibition on multiple unions at the enterprise level will end. As Korea's current law does not designate the means for determining the collective bargaining representative among the multiple unions, many expect inter-union conflict and widespread confusion on both sides of the bargaining table.

¶18. (SBU) The roadmap includes measures that would help mitigate the impact of both these changes. Organized labor, however, objects to the roadmap as being too pro-management. In the words of the KCTU, the "aim of the roadmap is not the improvement of industrial relations but institutionalization of neoliberal policies." To the KCTU, the roadmap is but a "blueprint that enforces arbitrary corporatism."

#### MAJOR ROADMAP REFORMS

-----

¶19. (SBU) Wages for full-time union workers: It is current practice in the ROK for employers to pay the salaries of full-time union workers, even if those "employees" work exclusively at union headquarters. Experts believe that over 6,000 union officials are paid in this manner. In an effort to decrease union dependency on corporate financing and increase union transparency and accountability, the National Assembly in the 1997 TULRAA prohibited employers from paying full-time union workers. The law included a grace period that delayed implementation until 2002. The ROKG in 2001 provided an additional five-year grace period, which expires in January 2007. As recognized when the two grace periods were put in place, if this change is not properly managed, it could deliver a devastating blow to union financing. The roadmap would allow wage support for a limited number of full-time union workers, based on the size of the union.

¶10. (SBU) Multiple unions at the enterprise level: Pursuant to another TULRAA provision that has been twice delayed, multiple unions will be permitted at the enterprise level starting from 2007. However, how to unify the bargaining channels remains a contentious issue. Labor insists that it is a matter for labor and management to decide on a case-by-case basis. Employers argue that government should decide the issue in order to avoid confusion. The roadmap states that unions should have a designated period of time to determine a collective bargaining agent. If the unions fail to unify the bargaining channels within that period, the right to bargain collectively would either be given to the union that has the majority of workers as members or, if there is no such union, to the union that garners the majority of votes from workers. An alternative solution would be to form a collective bargaining team in proportion to the number of union members.

¶11. (SBU) Union shop: According to 2002 research, over 40 percent of collective bargaining agreements state that if members of a trade union account for more than two-thirds of all workers, the remaining workers must join the union. These provisions will be untenable after enterprise-level union pluralism begins in 2007. Under the roadmap, union shop provisions would be either abolished, or maintained on condition that workers who apply to, or organize, other



unions not be subjected to personal disadvantages.

¶12. (SBU) Employee notification of layoffs: Current law provides that workers' representatives must be notified 60 days prior to redundancy dismissals made for managerial reasons. The roadmap provides that the consultation period for employment adjustment would be set differently according to the scale and ratio of dismissals, with a 60-day limit. In addition, conditions for employment adjustment would be eased or lifted for companies declaring bankruptcy.

¶13. (SBU) Union status for the unemployed: The unemployed are not considered "workers" under current law and are therefore not allowed to join unions. Under the roadmap, unemployed persons may join industrial-level unions, but not enterprise-level unions. Specific qualifications at the industrial level would be determined by the unions themselves.

¶14. (SBU) Bargaining and industrial action: In addition to "working conditions," which are already a mandatory subject of collective bargaining, issues such as lump sum deduction of union fees, union activity during worktime guarantees, and grievance procedures would also be mandatory bargaining issues.

¶15. (SBU) Term limit for collective bargaining agreements: Presently, the maximum term for collective bargaining agreements is two years. Under the roadmap, the terms of the agreement would be set by the parties. However, in case of an agreement that exceeds three years, the agreement may be terminated after three years upon six months' notice of either party.

¶16. (SBU) Third-party intervention: The roadmap would abolish the current law's requirement that any third party that wants to support bargaining or an industrial action must first report to the government.

¶17. (SBU) Replacement work: Current law authorizes businesses to use only existing workers for replacement work. In cases of legal strikes in public businesses, the roadmap would permit replacement work through new recruitment and subcontracting.

¶18. (SBU) Essential public businesses: The current restrictions on the right of workers at essential public businesses would be eliminated. Instead, there would be a regulation that public sector businesses must maintain a minimum level of service while on strike. Workers subject to the minimum service requirement would be ordered to return to duty.

¶19. (SBU) Mediation: The prohibition on industrial action during mediation would be extended from 30 days to 60 days.

VERSHBOW